

**A Response to the Office Action Dated February 20, 2004:**

**A. Status of the Claims**

Claims 1-12 and 14-27 were pending at the time the Office Action dated February 20, 2004 was issued from the U.S. Patent and Trademark Office. Claims 1-12 and 14-27 have been cancelled and claims 28-47 have been added. The amendments made in this Response are proper under 37 C.F.R. § 1.116 because they place the claims into a: (1) condition for allowance; and (2) better form for consideration on appeal. Applicants request that the amendments be made of record, therefore making claims 28-47 currently pending.

**B. The Obviousness Rejection is Moot**

The Action rejects claims 1-12 and 14-24 under 35 U.S.C. § 103(a) as being obvious over Fukushima *et al.* The Action contends that although monomer A of Fukushima *et al.* (which is directed towards a *butyleneoxy* group) fails to disclose Applicants claimed monomer (I) (which can comprise either a *propyleneoxy* group or a *methylethyleneoxy* group), Applicants monomer (I) is obvious over this cited reference.

Applicants traverse. Claims 1-12 and 14-24 are not obvious over Fukushima *et al.*

The Action has not met its burden of establishing a *prima facie* case of obviousness. See MPEP § 2142 ("The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under *no obligation* to submit evidence of nonobviousness"). The obviousness rejection is therefore improper.

In an effort to further the prosecution in this case and to obtain commercially relevant claims at this time, however, Applicants have deleted claims 1-12 and 14-27. The claims that are currently pending, claims 28-47, incorporate the subject matter of claim 25—which was not

rejected by the Action as being obvious over Fukushima *et al.* Applicants reserve the right to pursue the subject matter of claims 1-12 and 14-27 in a continuing application.

The present obviousness rejection is therefore rendered moot and should be withdrawn.

**C. The Obviousness-Type Double Patenting Rejection**

The Action rejects claims 1-12 and 14-27 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims of co-pending Application No. 10/061,761 which is now issued as U.S. Patent No. 6,677,420. Applicants are submitting a Terminal Disclaimer concurrently with this Response. The obviousness-type double patenting rejection should therefore be withdrawn.

**D. The Submission of a Foreign Priority Document**

Applicants are in the process of obtaining a certified copy of French Application No. 99/10031, filed on August 2, 1999. Applicants will submit the certified copy of this priority document in due course.

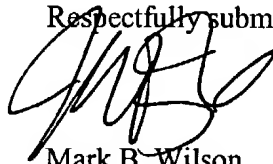
**E. Conclusion**

Applicants believe that the present document is a full and complete response to the Office Action dated February 20, 2004. The present case is in condition for allowance, and such favorable action is requested.

**A Petition for a Three Month Extension of Time:**

Pursuant to 37 C.F.R. § 1.136(a), Applicants petition for an extension of time of three months to and including August 20, 2004, in which to respond to the Office Action dated February 20, 2004. Pursuant to 37 C.F.R. § 1.17, a check in the amount of \$950.00 is enclosed, which is the process fee for a three-month extension of time for a large entity status. If the check is inadvertently omitted, or should any additional fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason relating to the enclosed materials, or should an overpayment be included herein, the Commissioner is authorized to deduct or credit said fees from or to Fulbright & Jaworski Deposit Account No. 50-1212/ESSR:039US.

Respectfully submitted,



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Date: August 20, 2004

### A Listing of the Claims:

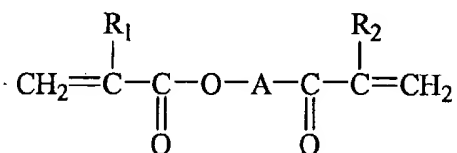
The listing of claims will replace all prior versions, and listings, of claims in the application.

### Amendments to the Claims:

Claims 1-27 (cancelled).

28. (new): A polymerized monomeric composition comprising:

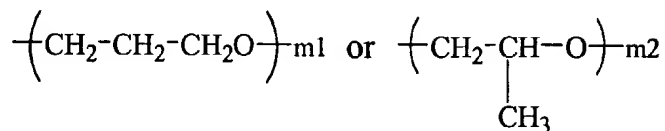
(a) from 35 to 70 parts by weight of one or more monomers (I) comprising a formula:



wherein

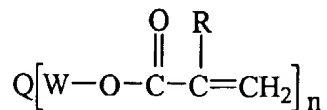
R<sub>1</sub> and R<sub>2</sub> represent H or CH<sub>3</sub>,

A is a divalent moiety of formula:



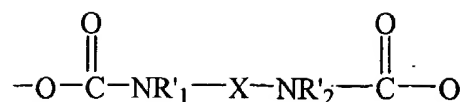
m<sub>1</sub> and m<sub>2</sub> each are an integer in the range of 4 to 20;

(b) from 5 to 50 parts by weight of one or more monomers (II) comprising a formula:



wherein

Q moiety is a divalent moiety comprising a formula:



wherein X represents a straight or a branched divalent alkyl chain comprising 1 to 12 carbon atoms and R'<sub>1</sub> and R'<sub>2</sub>, independent from one another, represent H or CH<sub>2</sub>;

W is a divalent alkyl moiety, with a straight or branched structure, comprising 1 to 5 carbon atoms;

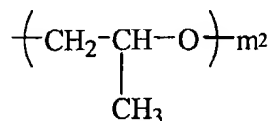
n varies from 2 to 4;

R represents H or CH<sub>3</sub>; and

R<sup>1</sup> represents H or a valence link; and

- (c) from 5 to 40 parts by weight of a monomer (III) with a high Abbe number comprising at least one non aromatic cyclic or polycyclic hydrocarbon moiety and further comprising one or more methacrylate functions, the total of the monomers (I), (II), and (III) representing 100 parts by weight.

29. (new): The composition of claim 28, wherein in the monomer of formula (I), said divalent A represents:

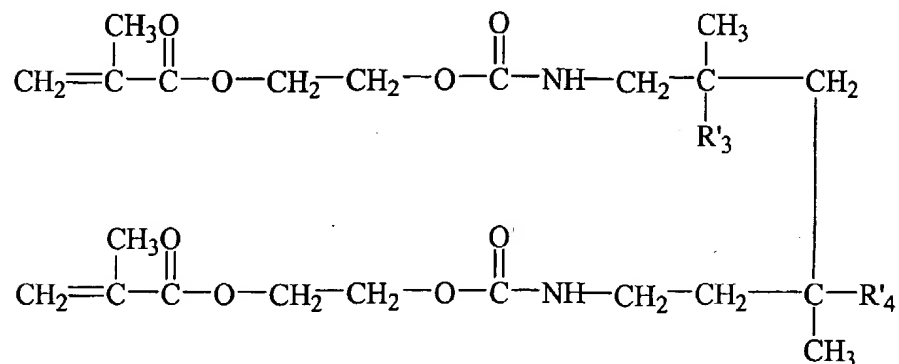


wherein m<sub>2</sub> is an integer in the range of 4 to 20.

30. (new): The composition of claim 28, further defined as comprising from 40 to 60 parts by weight of monomers (I)
31. (new): The composition of claim 28, wherein m<sub>1</sub> and m<sub>2</sub> are integers from 5 to 10.

32. (new): The composition of claim 28, wherein W is  $-\text{CH}_2\text{CH}_2-$

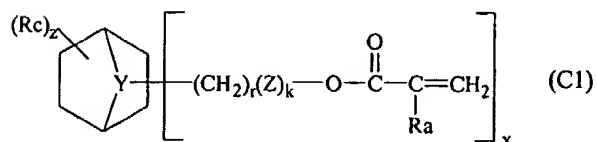
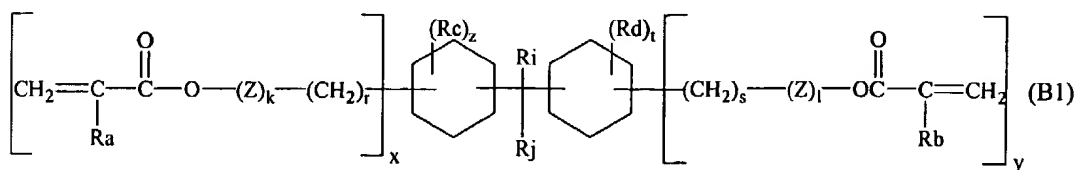
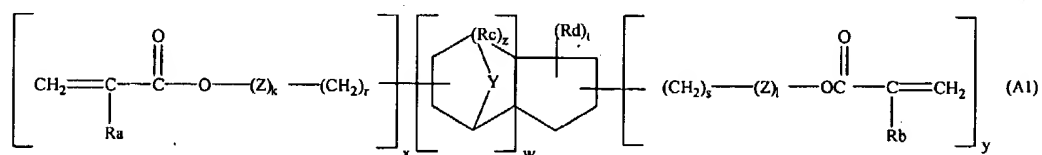
33. (new): The composition of claim 28, wherein the monomer (II) comprises a formula:



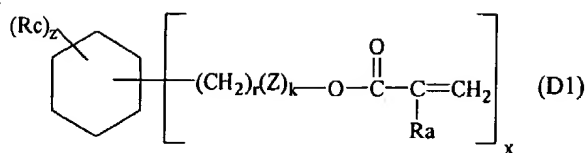
wherein  $\text{R}'_3$  and  $\text{R}'_4$  represent, independently from one another, H or  $\text{CH}_2$ .

34. (new): The composition of claim 28, further defined as comprising 30 to 40 parts by weight of monomer (II).

35. (new): The composition of claim 28, wherein the monomer (III) comprises a formula:



or



wherein:

Y is a divalent moiety of  $-\text{O}-$ ,  $-(\text{CH}_2)_2-$ ,  $-\text{CH}(\text{CH}_3)-$ ;

Z is a divalent moiety of  $-(\text{CH}_2)_p-\text{O}-$  or  $\left( \text{---} \text{CH}_2 \text{---} \overset{\text{CH}_2}{\underset{|}{\text{CH}}} \text{---} \text{O} \text{---} \right)$

wherein p is an integer from 1 to 4;

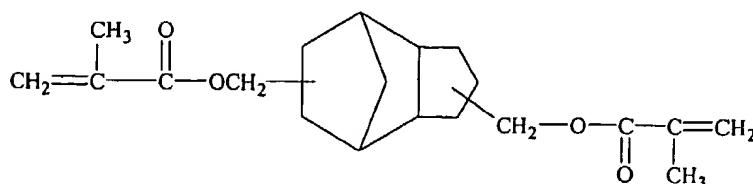
$R_a$ ,  $R_b$  represent, independently from one another, H or  $\text{CH}_3$ ;

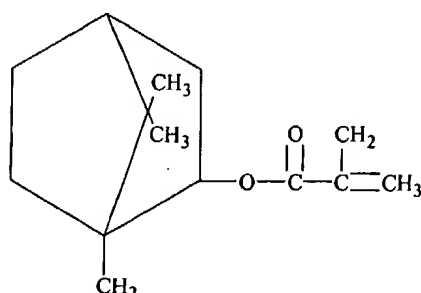
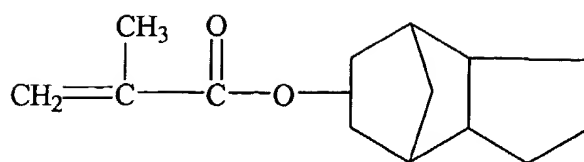
$R_c$ ,  $R_d$  represent, independently from one another, a straight or a branched alkyl moiety comprising from 1 to 6 carbon atoms;

$R_i$ ,  $R_j$  represent, independently from one another, a straight or a branched alkyl moiety comprising from 1 to 10 carbon atoms;

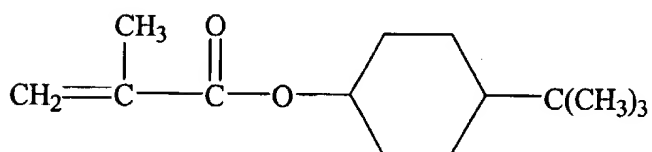
w is an integer of 1 to 3, x is an integer of 0 to 3, y is an integer of 0 to 3, providing that  $x + y$  is equal to or higher than 1, k is an integer of 0 to 6, l is an integer of 0 to 6, r is an integer of 0 to 6, s is an integer of 0 to 6, z is an integer of 0 to 3 and t is an integer of 0 to 3.

36. (new): The composition of claim 35, wherein the monomer (III) comprises a formula:





or



37. (new): The composition of claim 28, further defined as comprising from 10 to 30 parts by weight of monomer (III).
38. (new): The composition of claim 28, wherein monomers (II) and (III) each provide, through homopolymerization, a homopolymer with a refraction index lower than or equal to 1.54.
39. (new): The composition of claim 28, further defined as comprising one or more monomers (IV) polymerizable by radical mechanism and that are different from the monomers (I), (II), and (III), in a proportion of 0 to 40% by weight based on the total weight of monomers (I), (II), and (III).



40. (new): The composition of claim 39, wherein the monomer (IV) is such that its homopolymer has a refraction index lower than or equal to 1.54.
41. (new): The composition of claim 28, wherein X represents a straight or a branched divalent alkyl chain comprising from 1 to 5 carbon atoms.
42. (new): The composition of claim 28, wherein X represents a straight or a branched divalent alkyl chain comprising from 8 to 12 carbon atoms.
43. (new): The composition of claim 28, wherein further defined as comprising a viscosity lower than or equal to 0.3 Pa.s.
44. (new): A transparent polymer substrate with a refraction index varying between 1.48 and 1.52, wherein the polymer substrate is obtained through polymerization of the composition of claim 28.
45. (new): An optical lens comprising a polymer substrate of claim 43.
46. (new): The optical lens of claim 45, further defined as an ophthalmic lens.
47. (new): The optical lens of claim 46, wherein the lens comprises glass.